

### REMARKS

This Amendment supplements Applicant prior amendments and is responsive to the telephone interview between the undersigned and Examiner Astorino on December 15, 2009.

Claims 38-40 have been amended to address the alleged "new matter" concerns raised by the Examiner. Claims 3-9, 11-17, 19-28, 30 and 38-40 remain pending in the application. Applicant respectfully requests reconsideration of the Examiner's rejections.

With respect to the independent claims, Applicant incorporates all of its April 3, 2009, remarks/arguments as to why the addition of the timer unit and timer functions to the claims, without any other additions, is sufficient to place the claims in condition for allowance.

With respect to amended claims 38-40, Applicant respectfully directs the Examiner attention to the following locations in the Substitute Specification which provides non-limiting examples of support for the current amendments to Claims 38-40:

- (1) Page 2, lines 27-28 -- "prompts...usage of the medical apparatus";
- (2) Page 3, line 11 -- "prompt the patient's usage of the medical apparatus";
- (3) Page 3, bottom line -- "The present invention encompasses the use of humanlike voices...to facilitate the use";
- (4) Page 6, lines 14 and 17 -- "encouraging phrases to prompt usage by the patient";
- (5) Page 7, line 10 -- "The functional program will at a predetermined time engage the operation of each device in order to guarantee each operation been performed by the patient as well as, turn off and on the medical apparatus at said predetermined times";
- (6) Page 8, lines 24-25 -- "These audible, verbal, humanlike voice phrases...will prompt the patient to start using the device by constantly prompting usage, until the patient begins to use the present invention again";
- (7) Page 9, line 8 -- "Another important benefit of the present invention...to recognize what time he or she should begin using the apparatus"; and
- (8) Page 9, lines 26-31 -- "Most physicians suggest usage of medical devices, usually on specific intervals, and the present invention can be set...to provide audible, verbal, simulated

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humanlike voice phrases, to inform the patient of the exact times and intervals in which the patient should use their particular apparatus”.

Accordingly, support for the current amendments to claims 38-40 are clearly found in the specification as highlighted above.

Additionally, with respect to independent claims 1, 17 and 22, the Examiner has never fully ruled on the patentability of these claims solely based on Applicant's claim amendments and arguments filed on April 3, 2009 relating to the timing unit and its functionality to the claims. Substantial arguments for patentability over Kaufman based on solely on the addition of the timing unit were provided in the April 3<sup>rd</sup> amendment, and are incorporated by reference herein.

In view of the above, Applicant respectfully submits that the claims are all in condition for allowance. Applicant respectfully requests that the Examiner withdraw the objection and Section 112, first paragraph rejection. Accordingly, favorable action, allowing all of Applicant's claims, is respectfully requested.

If there are any additional charges, including extension of time, please bill our Deposit Account No. 503180.

Respectfully submitted,

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